

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15636 of Olga Mazza pursuant to 11 DCMR 3107.2 for a variance from the use provisions (Subsection 300.3) to allow the retail sale of oriental rugs on the basement through the second floor in an R-2 District at premises 2815 Ordway Street, N.W. (Square 2068, Lot 72).

HEARING DATE: March 11, and June 10, 1992  
DECISION DATE: July 1, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 2815 Ordway Street, N.W. It is located on the north side of Ordway Street, N.W. between Connecticut Avenue and 30th Street, N.W. The property is zoned R-2.

2. The subject property is located in a residential area. It is improved with a two-story plus basement semi-detached structure originally built in 1921 as a single-family dwelling. The site abuts 15-foot wide public alleys to the north and east. The public alley that is located to the east of the site divides the subject R-2 zone district from the Connecticut Avenue commercial district zoned C-2-A. In addition, a 15-foot wide building restriction line traverses the entire width of the property along Ordway Street, N.W.

3. The area surrounding the site contains a mix of commercial and residential uses. The Connecticut Avenue commercial corridor is situated directly east of the site across the 15-foot wide public alley and contains a large number of strip-type commercial establishments. Commercial uses also abut the subject site to the west along the north side of Ordway Street in the same block. A large apartment building is located across Ordway Street from the subject site on the southwest corner of the intersection of Connecticut Avenue and Ordway Street. It is developed with detached, semi-detached, and row single-family dwellings to the south and west. The Park and Shop shopping center, the Uptown Theatre and the Cleveland Park Public Library are located within the immediate vicinity.

4. The subject site is located in an R-2 zone district. The R-2 District permits matter of right development of single-family detached and semi-detached dwelling units with a minimum lot area of 3,000 square feet, a minimum lot width of 30 feet, a maximum lot

occupancy of 40 percent, and a maximum height of three stories/40 feet. A rug rental establishment is first permitted as a matter of right in a C-2 zone District.

5. The applicant is proposing to operate a retail sales outlet for oriental rugs at the subject premises. The basement of the structure would be used for storage, the first floor for the display and sale of oriental rugs, and the third floor for business related office use.

6. The property was rezoned from C-2-A to R-2, with the Zoning Commission's Notice of Final Rulemaking published on November 3, 1989, three days after the applicant was issued a certificate of occupancy. The certificate of occupancy was later revoked in 1990, and appeals were also denied in 1990.

7. The Board required the applicant to show, under the provisions of Section 3107.2, that the property is affected by a unique or exceptional situation which would create practical difficulties to and undue hardship upon the owner to conform with existing zoning, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zoning Plan.

8. The subject property has been used for commercial purposes that date back to 1973 when a certificate of occupancy was issued for a retail lamp store. It was also used for a delicatessen pursuant to Certificate of Occupancy No. 151756, granted in 1986.

9. The applicant testified that requiring the reconfiguration of the interior and exterior of the property abutting other commercial properties would cause an undue hardship. In addition, the applicant or agent intends to sell oriental rugs in the subject property, a business which is not inappropriate or incompatible with the interests of the Historic Community.

10. The applicant also testified that the use of the subject property was unique both, commercially and culturally, with a low volume of business, limited hours of operation and delivery, some on-site parking, and regular trash pick-up.

11. The applicant also noted that the selling of oriental rugs is less intensive as a practical matter than the previous matter of right delicatessen use.

12. Mr. Ali Farshneshani, owner of the rug business, testified that the subject property is not suitable for residential use because of the loud noises resulting from trash pick-up and deliveries.

13. Mr. Farshneshani also stated that the signage would face towards the Connecticut Avenue commercial corridor and not the residential neighborhood.

14. The owner of the property Olga Mazza, stated that she had no knowledge of the sign or windows that were placed on the property.

15. In a supplemental report dated June 16, 1992, the Office of Planning (OP) recommended that a site inspection be made of the interior of the subject property because of concerns raised regarding the properties suitability for commercial as opposed to residential use, and whether or not there existed a hardship.

OP pointed out that the subject property was originally built in 1915 as a single-family residence and was converted to commercial use in the early 70's.

OP stated that the subject property has undergone a considerable amount of interior alteration and reconfiguration in converting it from residential to commercial use. Modifications were made to the structure without the appropriate permits. These modifications included the installation of large commercial-type plate glass windows and the erection of large signs on the exterior east wall for business advertising purposes.

If the applicant was required to return the structure to residential use, it would create an undue hardship that would deprive the applicant of a reasonable commercial use for which the property was purchased.

It was then noted that the structure is not suitable for residential use in its present condition and would require extensive alterations to return it to residential use.

OP recommended that the application be approved subject to the following conditions:

- a. The application shall be approved for a period of three years.
- b. The hours/days of operation shall be from 10:00 a.m. to 6:00 p.m. Monday through Saturday, and from 12:00 p.m. to 5:00 p.m. on Sunday.
- c. No more than an average of ten customers per day shall visit the subject property.
- d. No more than two employees shall work at the subject premises at any one time.

- e. Only one small exterior unlighted sign be permitted on the side of the building facing Connecticut Avenue, N.W., subject to approval by the Historic Preservation Review Board (HPRB).
- f. No merchandise shall be permitted to be displayed outside of the structure.
- g. The existing large plate glass window in the east wall of the building shall be replaced with a window similar to the other in the structure, subject to approval by the HPRB.
- h. The existing large exterior signs on the east and south wall of the structure shall be removed.

16. The Cleveland Park Historical Society (CPHS), in a report to the Board dated June 24, 1992, stated that intensive commercial use of the property in the neighborhood threatened the historic residential character of the neighborhood.

CPHS also noted that there had been no showing of uniqueness in the property, no case for hardship, as recognized under the law had been made and that grant of the application would be inconsistent with the zone plan for the area.

CPHS also testified that the subject property was not suitable for commercial use, because of its location off Connecticut Avenue and that the use of illegal signs, plate glass windows and marketing efforts are inappropriate for a residential street.

17. In a letter to the Board dated June 25, 1992, the Advisory Neighborhood Commission (ANC) 3C stated that they were opposed to the granting of the variance.

The ANC stated that the granting of the variance would impair the intent, purpose, and integrity of the zone plan as amended by the Zoning Commission.

The ANC stated that they disagree with the Office of Planning's report regarding hardship. It was pointed out that the Office of Planning failed to show how variance relief can be granted without substantial detriment to the public good without substantially impairing the intent, purpose, and integrity of the zone plan. Second, the ANC disagreed with the OP on the fact that requiring the owner to convert the townhouse from commercial to residential use would create a hardship, and third, OP did not explain what was unique about the property or what "extraordinary condition" existed that should permit a rug store at the site.

FINDINGS OF FACT:

1. The Board disagrees with the recommendation of the OP.
2. The Board agrees with the issues and concerns raised by Advisory Neighborhood Commission 3C and the Cleveland Park Historical Society. The Board also finds creditable the site inspection reports of the ANC and the Historical Society.
3. Commercial use of the site threatens the historic residential character of the neighborhood.
4. The applicant failed to prove that the property could not be put to a matter of right use or a use permitted as a special exception. The Board finds that the property can be reconverted to a residential or other permitted use.
5. There is no unique physical characteristics associated with the property.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires proof of a hardship that is inherent in the property itself. The Board concludes that no such hardship exists as evidenced by the previous use of the property. Further, the Board concludes that the applicant has not met the burden of proof. No probative evidence was offered that the property could not be put to a use permitted in the R-2 District.

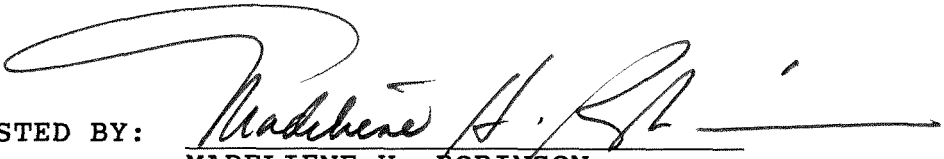
The Board further concludes that the relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application be DENIED.

VOTE: 3-0 (Angel F. Clarens, John G. Parsons, and Paula L. Jewell to deny Carrie L. Thornhill not voting, not having participated in the case, Sheri M. Pruitt, not present not voting).

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. ROBINSON  
Director

FINAL DATE OF ORDER: JUN 30 1994

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

15636Order/LH/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15636

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 30 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Lance G. Binkley, Esquire  
1710 Rhode Island Avenue, N.W.  
Washington, D.C. 20036

Ali R. Farshneshani  
2815 Ordway Street, N.W.  
Washington, D.C. 20008

Olga M. Mazza  
3816 Cathedral Avenue, N.W.  
Washington, D.C. 20016

Jeffry A. Kappstalfer  
471 H Street, N.W.  
Washington, D.C. 20001

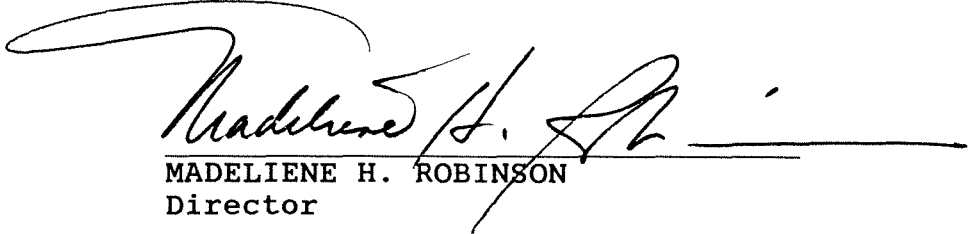
Kathleen Sinclair Wood  
3101 Highland Place, N.W.  
Washington, D.C. 20008

Jeff Berman  
2812 Ordway Street, N.W.  
Washington, D.C. 20008

John B. O'Sullivan  
3410 Newark Street, N.W.  
Washington, D.C.

Eleni Constantine  
Cleveland Park Historical  
Society  
3521 35th Street, N.W.  
Washington, D.C. 20016

Patricia Wamsley, Chairperson  
Advisory Neighborhood Commission 3C  
2737 Devonshire Place, N.W.  
Washington, D.C. 20008

  
MADELIENE H. ROBINSON  
Director

DATE: \_\_\_\_\_

JUN 30 1994

15636Att/bhs